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**MUNICIPAL LAW GUIDEBOOK**  
**FOR CITY OF FRESNO ELECTED OFFICIALS**

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## INTRODUCTION

This is the biennial update to our Municipal Law Guidebook for City of Fresno Elected Officials ("Guidebook"). The Guidebook is intended to provide an overview of some of the basic laws and legal procedures for elected officials of the City of Fresno. The Guidebook serves as an introduction to municipal law for newly elected officials and is an update for current officials continuing in their positions.

It is important to note that newly elected officials are affected by some of these laws before they even take office. For example, the Brown Act expressly provides that newly elected officials who have not yet assumed office are subject to the Brown Act. Thus, a quorum of holdover Councilmembers and newly elected Councilmembers, in any combination, which meets to hear, discuss, or deliberate upon any matter which comes under the Council's deliberation constitutes an unlawful meeting of the Council. Another example is in the area of gifts and income received within twelve months of a decision made by an elected official. As discussed in Section 3 of this Guidebook, income and gifts received twelve months prior to an elected official's consideration of a matter may require disclosure and disqualification.

City of Fresno elected officials will also sit on other boards and commissions. This Guidebook should be used as a reference for your role on other public boards and commissions. For example, the Council sits as the Board of Directors for the City of Fresno Redevelopment Agency. Most of the rules in this Guidebook are applicable to Councilmembers sitting as Boardmembers for the Redevelopment Agency.

This Guidebook is meant only as an overview to highlight laws and procedures with which elected officials must acquaint themselves. Certain of these laws, particularly conflicts of interest, are very comprehensive, and fact intense, and make the elected official personally liable. While there are basic rules, most decisions in the conflict of interest area are made on a case by case basis.

We strongly urge the Mayor and Councilmembers to read this Guidebook and to keep it handy at all times. The City Attorney's Office will make every attempt to assist the Mayor and Councilmembers. In the event this Office is unable to provide assistance because the nature of an inquiry or concern is private in nature or creates a conflict of interest, we will refer the elected official to the appropriate agency or to his or her private attorney.

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## **SECTION 1. MAYOR-COUNCIL FORM OF GOVERNMENT**

The City's organic law is the Charter of the City of Fresno ("Charter"). The Charter is often called a City's "constitution." It may be amended only by the City voters. The Council also promulgates laws by ordinances codified in the Fresno Municipal Code and by resolution. The Mayor may issue executive orders consistent with the Charter, the Fresno Municipal Code ("FMC"), and other applicable laws and regulations. Finally, the City Manager may issue administrative orders.

On April 27, 1993, City voters adopted numerous amendments to the Charter. Among these Charter amendments were the various amendments which created the Mayor-Council form of government. This form of government is often referred to as the Strong Mayor form of government. Prior to that, the City was governed under a Council-Manager form of government. The Mayor-Council form of government became operative in January 1997.

Charter Section 400 identifies the Mayor as the Chief Executive Officer of the City and it lays out specific duties, including:

- The execution and enforcement of all laws and policies.
- The power to appoint, control and remove the City Manager.
- The preparation of the annual City budget for deliberation and approval.
- Veto power over all Council legislative and budgetary acts, except as otherwise provided in the Charter.
- The power to serve as the liaison between the Administrative Service and Council.
- The power to foster a sense of cohesion among Council and educate the public about the needs and prospects of the City.
- The power to promote economic development, recommend legislation and policy and investigate the affairs of the City under the Mayor's supervision.

While the Mayor is given new powers to recommend legislation and policy, prepare the budget, and veto certain Council actions, the Mayor is also removed from the direct Council legislative deliberation and is not a voting member of the Council.

Under Charter Section 500, the Council remains vested with a broad grant of all powers granted to the City except as otherwise expressly provided in the Charter. Section 500 reads as follows:

**SECTION 500. POWERS VESTED IN THE COUNCIL.** All powers herein granted to and vested in the City of Fresno shall, except as herein otherwise provided, be exercised by a Council to be designated the Council of the City of Fresno. Said Council shall the (sic) be governing body of the City and, subject to the express limitations of this Charter, shall be vested with all powers of legislation in municipal affairs adequate to a complete system of local government consistent with the Constitution of the State. Each Councilmember shall have the right to appoint and remove his or her own Council Assistant.

The Council, therefore, retains specific powers including the following:

- To make all laws involving municipal affairs subject to the Charter and the Constitution.<sup>1</sup>
- To exercise all other powers that a municipal corporation might or could exercise subject to the exceptions noted in the Charter.<sup>2</sup>
- To appoint and remove the City Attorney and City Clerk.<sup>3</sup>
- To control all the City legal business and proceedings.<sup>4</sup>

The Charter limitations continue the prohibition on the Mayor's and Council's interference in the administrative service of the City<sup>5</sup> except by official action taken in policy matters or to obtain information. Otherwise, the Mayor and Council are to deal with the administrative service through the City Manager.

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<sup>1</sup> Charter § 200.

<sup>2</sup> Charter § 200.

<sup>3</sup> Charter § 800.

<sup>4</sup> Charter § 803(g).

<sup>5</sup> Charter § 706.

While the Council is empowered to appoint the City Attorney and City Clerk,<sup>6</sup> the Mayor is provided the sole authority to appoint and remove the City Manager and to exercise control over the City Manager.

Under Charter Section 605, the Mayor has veto power over all legislative acts. This is true whether Council takes action by ordinance, resolution, or other action such as a minute resolution or approval of a contract. For purposes of the mayoral veto, Charter Section 605 sets forth some specific acts that are deemed legislative acts. Attached in the Exhibits Section are the following:

- (1) Matrix on Council's Actions Subject to Mayor's Veto under Charter Section 605.
- (2) Flow Chart when Council's actions are subject to the Mayor's veto and reconsideration by Council.

The City Attorney's Office has issued numerous legal memoranda regarding the Mayor-Council form of government. We strongly recommend the Mayor and Councilmembers read two particular opinions as they offer a comprehensive overview and analysis. The two opinions are FY 98-1, *"Governance Under the Mayor-Council Form of Government"* and FY 2000-1, *"Nature and Extent of Mayor's Executive Powers Under Mayor-Council Form of Government."* They are attached as exhibits.

The Charter requires that the Council hold regular meetings. It also requires that the Council establish rules for the conduct of its proceedings. The Council has done this by adoption of Chapter 2, Article 1 of the FMC. Also, in September of 1997, Council adopted Resolution No. 97-222, which established the Rules of Protocol for the conduct of all meetings of the Council. The Rules of Protocol, and its amendments, are attached as an exhibit thereto. The Rules of Protocol supplements the FMC, and does not replace or take precedence over our Charter and FMC or applicable state laws, such as the Brown Act discussed in Section 2 of this Guidebook. The Rules of Protocol were adopted for the public's convenience and orderly conduct of the City's business.

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<sup>6</sup> Charter § 800.